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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,524	11/06/2003	Marco Razeti	38351/GM/ps	5001

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EXAMINER

JOHNSON, JERROLD D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/701,524	<b>Applicant(s)</b> RAZETI ET AL.	
	<b>Examiner</b> Jerrold Johnson	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                       |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>24 February 2005</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: Polyethylene has been spelled polythene several times in the specification and claims. Appropriate correction is required.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 7 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Biaxially oriented polypropylene (BOPP) film set forth in claim 6 has no antecedent basis.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cozzie US 5,644,670 in view of Shirmer et al. US 5,158,836, Nagai et al US 6,190,760 and Examiner Official Notice.

Re claim 1, Cozzie discloses a food product having an inner package sheet 10 disposed in an outer package sheet 50.

Cozzie does not explicitly disclose the structure of the first package comprising a coextruded film having outer layers of styrene-butadiene copolymer resin and a central layer disposed therebetween. Cozzie also does not disclose the outer sheet comprising a high-barrier film coupled to a paper film.

Schirmer discloses the known structure of a coextruded film having outer layers of styrene-butadiene copolymer resin and a central plastic material layer (VLDPE) disposed therebetween.

Nagai discloses the known structure of a high barrier film (metallized biaxially oriented polypropylene) coupled to a paper film used in food packaging.

It is noted that ~~the~~ no disclosure has been made to any specific unexpected results from the use of an coextruded film having outer layers of styrene-butadiene copolymer resin and a central plastic material layer (VLDPE) disposed therebetween on an inner sheet disposed within an outer sheet of high barrier film (specifically one constructed of a metallized biaxially oriented polypropylene) coupled to a paper film.

Accordingly, it would have been obvious to one of ordinary skill in the art to manufacture the inner packaging sheet 10 of Cozzie from a coextruded film of styrene-butadiene copolymer resin and a central plastic material layer disposed therebetween

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as such a material is known to provide clarity which enhances the viewing of the product while maintaining it freshness. It further would have been obvious to one of ordinary skill in the art to manufacture the outer packaging sheet 50 of Cozzie from a high barrier film coupled to a paper film as such materials are also known for their oxygen impermeability and ease of tearing.

Re claim 2, the film of Nagai is metallized.

Re claim 3,4 and 6, these claim limitations are not specifically set forth in the references to Schirmer and Nagai, but no criticality has been set forth with respect to any of these limitations each of which is a result effective variable. And, as it has been held that optimizing result effective variables is within the purview of a skilled artisan, it would have been obvious to one of ordinary skill in the art to modify the melt indexes of Schirmer so as to achieve the proper adherence between layers, and modify the inner sheet thickness and outer sheet thickness so as to achieve the necessary impermeability and tear ability.

Re claim 5, Nagai discloses this structure.

Re claims 7 and 8, precutting and tabs are notoriously old expedients to facilitate the opening of packages, and their use would be obvious to one of ordinary skill in the art. In deed Cozzie shows precut side edges on his inner package.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Examiner Official Notice in view of Shirmer et al. US 5,158,836 and Nagai et al US 6,190,760.

Cozzie, set forth above, is but one example of many that disclose the common arrangement of a food product packaged in a first sheet which is then disposed within a second sheet. This packaging arrangement is notoriously well known, however, and is particularly well known in food products that are perishable so that the food products are not subject to deterioration after the outer package is opened.

Schirmer discloses the known structure of a coextruded film having outer layers of styrene-butadiene copolymer resin and a central plastic material layer (VLDPE) disposed therebetween.

Nagai discloses the known structure of a high barrier film (metallized biaxially oriented polypropylene) coupled to a paper film used in food packaging.

It is noted that the no disclosure has been made to any specific unexpected results from the use of an coextruded film having outer layers of styrene-butadiene copolymer resin and a central plastic material layer (VLDPE) disposed therebetween on an inner sheet disposed within an outer sheet of high barrier film (specifically one constructed of a metallized biaxially oriented polypropylene) coupled to a paper film.

Accordingly, it would have been obvious to one of ordinary skill in the art to manufacture the inner packaging sheet 10 from a coextruded film of styrene-butadiene copolymer resin and a central plastic material layer disposed therebetween as such a material is known to provide clarity which enhances the viewing of the product while maintaining it freshness. It further would have been obvious to one of ordinary skill in the art to manufacture the outer packaging sheet 50 from a high barrier film coupled to a

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paper film as such materials are also known for their oxygen impermeability and ease of tearing.

Re claim 2, the film of Nagai is metallized.

Re claim 3,4 and 6, these claim limitations are not specifically set forth in the references to Schirmer and Nagai, but no criticality has been set forth with respect to any of these limitations each of which is a result effective variable. And, as it has been held that optimizing result effective variables is within the purview of a skilled artisan, it would have been obvious to one of ordinary skill in the art to modify the melt indexes of Schirmer so as to achieve the proper adherence between layers, and modify the inner sheet thickness and outer sheet thickness so as to achieve the necessary impermeability and tear ability.

Re claim 5, Nagai discloses this structure.

Re claims 7 and 8, precutting and tabs are notoriously old expedients to facilitate the opening of packages, and their use would be obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ 



Mickey Yu  
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